



STATE OF NEW JERSEY

In the Matter of Overtime Program,
Department of Labor and Workforce
Development

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2022-935

Administrative Appeal

**ISSUED: NOVEMBER 22, 2021
(HS)**

The Division of Agency Services (Agency Services), on behalf of the Department of Labor and Workforce Development (Department), requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed to provide certain individuals in non-limited, non-exempt (NE) titles cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours.

In its request, the Department explains that the staff of its Divisions of Income Security, Information Technology, and Finance and Accounting are needed to work unusual work time requirements to address the “historic” workload resulting from the COVID-19 pandemic. Specifically, the Division of Income Security has a significant workload associated with processing unemployment benefits claims directly related to the following federally-implemented pandemic programs: the Coronavirus Aid, Relief, and Economic Security (CARES) Act; the Continued Assistance Act; and the American Rescue Plan. The Division of Information Technology, according to the Department, is a critical component of the Department’s direct response to the pandemic and is carrying out the following functions, among others: maintaining the unemployment insurance system, which has received an unprecedented number of claims; widening the customer access window to permit more hours per day for the submission of claims; continuously monitoring and optimizing the application system to ensure the system is reliable and secure; running multiple new automation processes daily to replace the manual entry of unemployment insurance claims; updating logic in various unemployment insurance systems to comply with federal legislation; and working to provide system access and laptops for staff in addition to ongoing efforts to maintain the remote working environment. Further, the increased workload in the Division of Finance and

Accounting due to CARES Act funding, as well as additional federal and state legislation, has created a tremendous need for analysis of budgetary impact, and significant time is spent with interpretation, research, implementation, federal reporting, State Treasury reporting, requesting additional funds, and technical related needs for remote access and hardware. The Department indicates that there is a limited number of employees trained to perform these increased duties, which fall on the supervisory staff. As such, the Department requests permission to pay NE employees in the three noted divisions cash overtime compensation “beginning at the 36th hour” from August 1, 2021 to December 31, 2021, inclusive. The Department represents that the “overwhelming majority” of costs are borne by the federal government. Agency Services supports the Department’s request.

CONCLUSION

N.J.A.C. 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1 provide, in pertinent part, that employees in NE titles are entitled to overtime compensation at the rate of one and one-half times their regular rate of pay “for time worked in excess of 40 hours per week” with the approval of the Chairperson or designee. However, per *N.J.A.C.* 4A:3-5.3(d)2, for work performed in excess of 35 hours per week, up to 40 hours, employees in NE titles are only entitled to comparable amounts of time off, not cash overtime compensation.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular situation, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

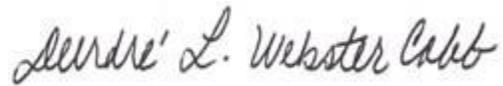
Due to the significant workloads stemming from the COVID-19 pandemic in the Divisions of Income Security, Information Technology, and Finance and Accounting, it is appropriate to permit NE employees in those three divisions who work more than 40 hours in a week to receive cash overtime per *N.J.A.C.* 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1 for hours worked from August 1, 2021 to December 31, 2021, inclusive. Further, under these particular facts and circumstances, it is also appropriate to relax the provisions of *N.J.A.C.* 4A:3-5.3 and permit those individuals to receive cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours from August 1, 2021 to December 31, 2021, inclusive.

ORDER

Therefore, it is ordered that this request be granted.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 17TH DAY OF NOVEMBER 2021



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Allison Chris Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Tennille R. McCoy
Heath Bernstein
Division of Agency Services